

109TH CONGRESS  
1ST SESSION

# H. R. 211

To reorganize the ninth judicial circuit, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2005

Mr. SIMPSON (for himself and Mr. DELAY) introduced the following bill;  
which was referred to the Committee on the Judiciary

---

## A BILL

To reorganize the ninth judicial circuit, and for other  
purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Ninth Circuit Judge-  
5       ship and Reorganization Act of 2005”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

8               (1) FORMER NINTH CIRCUIT.—The term  
9       “former ninth circuit” means the ninth judicial cir-  
10      cuit of the United States as in existence on the day  
11      before the effective date of this Act.

1           (2) NEW NINTH CIRCUIT.—The term “new  
2   ninth circuit” means the ninth judicial circuit of the  
3   United States established by the amendment made  
4   by section 4(a)(2)(A).

5           (3) TWELFTH CIRCUIT.—The term “twelfth cir-  
6   cuit” means the twelfth judicial circuit of the United  
7   States established by the amendment made by sec-  
8   tion 4(a)(2)(B).

9           (4) THIRTEENTH CIRCUIT.—The term “thir-  
10   teenth circuit” means the thirteenth judicial circuit  
11   of the United States established by the amendment  
12   made by section 4(a)(2)(B).

13 **SEC. 3. ADDITIONAL CIRCUIT JUDGES.**

14       (a) PERMANENT JUDGESHIPS.—The President shall  
15   appoint, by and with the advice and consent of the Senate,  
16   5 additional circuit judges for the former ninth circuit,  
17   whose official duty station shall be in California.

18       (b) TEMPORARY JUDGESHIPS.—

19           (1) APPOINTMENT OF JUDGES.—The President  
20   shall appoint, by and with the advice and consent of  
21   the Senate, 2 additional circuit judges for the former  
22   ninth circuit, whose official duty station shall be in  
23   California.

24           (2) EFFECT OF VACANCIES.—The first 2 vacan-  
25   cies occurring on the new ninth circuit 10 years or

1 more after judges are first confirmed to fill both  
 2 temporary circuit judgeships created by this sub-  
 3 section shall not be filled.

4 **SEC. 4. NINTH CIRCUIT REORGANIZATION.**

5 (a) NUMBER AND COMPOSITION OF CIRCUITS.—Sec-  
 6 tion 41 of title 28, United States Code, is amended—

7 (1) in the matter preceding the table, by strik-  
 8 ing “thirteen” and inserting “fifteen”; and

9 (2) in the table—

10 (A) by striking the item relating to the  
 11 ninth circuit and inserting the following:

|              |   |
|--------------|---|
| “Ninth ..... | California, Guam, Hawaii, Northern<br>Marianas Islands.”; |
|--------------|---|

12 and

13 (B) by inserting after the item relating to  
 14 the eleventh circuit the following:

|                   |                                  |
|-------------------|----------------------------------|
| “Twelfth .....    | Arizona, Nevada, Idaho, Montana. |
| “Thirteenth ..... | Alaska, Oregon, Washington.”.    |

15 (b) PLACES OF CIRCUIT COURT.—The table con-  
 16 tained in section 48(a) of title 28, United States Code,  
 17 is amended—

18 (1) by striking the item relating to the ninth  
 19 circuit and inserting the following:

|              |                               |
|--------------|-------------------------------|
| “Ninth ..... | San Francisco, Los Angeles.”; |
|--------------|-------------------------------|

20 and

21 (2) by inserting after the item relating to the  
 22 eleventh circuit the following:

|                 |                      |
|-----------------|----------------------|
| “Twelfth .....  | Las Vegas, Phoenix.  |
| “Thirteen ..... | Portland, Seattle.”. |

1       (c) ASSIGNMENT OF CIRCUIT JUDGES.—Each circuit  
 2 judge of the former ninth circuit who is in regular active  
 3 service and whose official duty station on the day before  
 4 the effective date of this Act—

5           (1) is in California, Guam, Hawaii, or the  
 6 Northern Marianas Islands shall be a circuit judge  
 7 of the new ninth circuit as of such effective date;

8           (2) is in Arizona, Nevada, Idaho, or Montana  
 9 shall be a circuit judge of the twelfth circuit as of  
 10 such effective date; and

11          (3) is in Alaska, Oregon, or Washington shall  
 12 be a circuit judge of the thirteenth circuit as of such  
 13 effective date.

14       (d) ELECTION OF ASSIGNMENT BY SENIOR  
 15 JUDGES.—Each judge who is a senior circuit judge of the  
 16 former ninth circuit on the day before the effective date  
 17 of this Act may elect to be assigned to the new ninth cir-  
 18 cuit, the twelfth circuit, or the thirteenth circuit as of such  
 19 effective date, and shall notify the Director of the Admin-  
 20 istrative Office of the United States Courts of such elec-  
 21 tion.

22       (e) SENIORITY OF JUDGES.—The seniority of each  
 23 judge—

24           (1) who is assigned under subsection (c), or

1           (2) who elects to be assigned under subsection  
2       (d),  
3 shall run from the date of commission of such judge as  
4 a judge of the former ninth circuit.

5       (f) APPLICATION TO CASES.—The following apply to  
6 any case in which, on the day before the effective date  
7 of this Act, an appeal or other proceeding has been filed  
8 with the former ninth circuit:

9           (1) If the matter has been submitted for deci-  
10 sion, further proceedings with respect to the matter  
11 shall be had in the same manner and with the same  
12 effect as if this Act had not been enacted.

13          (2) If the matter has not been submitted for de-  
14 cision, the appeal or proceeding, together with the  
15 original papers, printed records, and record entries  
16 duly certified, shall, by appropriate orders, be trans-  
17 ferred to the court to which the matter would have  
18 been submitted had this Act been in full force and  
19 effect at the time such appeal was taken or other  
20 proceeding commenced, and further proceedings with  
21 respect to the case shall be had in the same manner  
22 and with the same effect as if the appeal or other  
23 proceeding had been filed in such court.

24          (3) A petition for rehearing or a petition for re-  
25 hearing en banc in a matter decided before the effec-

1        tive date of this Act, or submitted before the effective date of this Act and decided on or after such effective date as provided in paragraph (1), shall be treated in the same manner and with the same effect as though this Act had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this Act had not been enacted.

9        (g) TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES  
10 AMONG CIRCUITS.—Section 291 of title 28, United States  
11 Code, is amended by adding at the end the following:

12        “(c) The chief judge of the Ninth Circuit may, in the public interest and upon request by the chief judge of the Twelfth Circuit or the Thirteenth Circuit, designate and assign temporarily any circuit judge of the Ninth Circuit to act as circuit judge in the Twelfth Circuit or Thirteenth Circuit, as the case may be.

18        “(d) The chief judge of the Twelfth Circuit may, in the public interest and upon request by the chief judge of the Ninth Circuit or Thirteenth Circuit, designate and assign temporarily any circuit judge of the Twelfth Circuit to act as circuit judge in the Ninth Circuit or Thirteenth Circuit, as the case may be.

24        “(e) The chief judge of the Thirteenth Circuit may, in the public interest and upon request by the chief judge

1 of the Ninth Circuit or the Twelfth Circuit, designate and  
 2 assign temporarily any circuit judge of the Thirteenth Cir-  
 3 cuit to act as circuit judge in the Ninth Circuit or Twelfth  
 4 Circuit, as the case may be.”.

5 (h) TEMPORARY ASSIGNMENT OF DISTRICT JUDGES  
 6 AMONG CIRCUITS.—Section 292 of title 28, United States  
 7 Code, is amended by adding at the end the following:

8 “(f) The chief judge of the United States Court of  
 9 Appeals for the Ninth Circuit may in the public interest—

10 “(1) upon request by the chief judge of the  
 11 Twelfth Circuit or Thirteenth Circuit, designate and  
 12 assign 1 or more district judges within the Ninth  
 13 Circuit to sit upon the Court of Appeals of the  
 14 Twelfth Circuit or Thirteenth Circuit (as the case  
 15 may be), or a division thereof, whenever the business  
 16 of that court so requires; and

17 “(2) designate and assign temporarily any dis-  
 18 trict judge within the Ninth Circuit to hold a district  
 19 court in any district within the Twelfth Circuit or  
 20 Thirteenth Circuit.

21 “(g) The chief judge of the United States Court of  
 22 Appeals for the Twelfth Circuit may in the public inter-  
 23 est—

24 “(1) upon request by the chief judge of the  
 25 Ninth Circuit or Thirteenth Circuit, designate and

1 assign 1 or more district judges within the Twelfth  
2 Circuit to sit upon the Court of Appeals of the  
3 Ninth Circuit or Thirteenth Circuit (as the case may  
4 be), or a division thereof, whenever the business of  
5 that court so requires; and

6 “(2) designate and assign temporarily any dis-  
7 trict judge within the Twelfth Circuit to hold a dis-  
8 trict court in any district within the Ninth Circuit  
9 or Thirteenth Circuit.

10 “(h) The chief judge of the United States Court of  
11 Appeals for the Thirteenth Circuit may in the public inter-  
12 est—

13 “(1) upon request by the chief judge of the  
14 Ninth Circuit or Twelfth Circuit, designate and as-  
15 sign 1 or more district judges within the Thirteenth  
16 Circuit to sit upon the Court of Appeals of the  
17 Ninth Circuit or Twelfth Circuit (as the case may  
18 be), or a division thereof, whenever the business of  
19 that court so requires; and

20 “(2) designate and assign temporarily any dis-  
21 trict judge within the Thirteenth Circuit to hold a  
22 district court in any district within the Ninth Circuit  
23 or Twelfth Circuit.

24 “(i) Any designations or assignments under sub-  
25 section (f), (g), or (h) shall be in conformity with the rules



1 or orders of the court of appeals of, or the district within,  
 2 as applicable, the circuit to which the judge is designated  
 3 or assigned.”.

4 (i) ADMINISTRATIVE COORDINATION.—Section 332  
 5 of title 28, United States Code, is amended by adding at  
 6 the end the following:

7 “(i) Any 2 contiguous circuits among the Ninth Cir-  
 8 cuit, Twelfth Circuit, and Thirteenth Circuit may jointly  
 9 carry out such administrative functions and activities as  
 10 the judicial councils of the 2 circuits determine may ben-  
 11 efit from coordination or consolidation.”.

12 (j) ADMINISTRATION.—The court of appeals for the  
 13 ninth circuit as constituted on the day before the effective  
 14 date of this Act may take such administrative action as  
 15 may be required to carry out this Act and the amendments  
 16 made by this Act. Such court shall cease to exist for ad-  
 17 ministrative purposes 2 years after the effective date of  
 18 this Act.

19 **SEC. 5. NUMBER OF CIRCUIT JUDGES.**

20 The table contained in section 44(a) of title 28,  
 21 United States Code, is amended—

22 (1) by amending the item relating to the ninth  
 23 circuit to read as follows:

“Ninth ..... 19”;

24 and

1           (2) by inserting after the item relating to the  
2           eleventh circuit the following:

“Twelfth ..... 8  
“Thirteenth ..... 6”.

3 **SEC. 6. EFFECTIVE DATE.**

4           (a) SECTION 3.—Section 3 shall take effect on the  
5           date of the enactment of this Act.

6           (b) SECTION 6.—Except as provided in subsection  
7           (a), this Act and the amendments made by this Act shall  
8           take effect on the first day of the first fiscal year that  
9           begins at least 9 months after the date on which all 5  
10          judges authorized to be appointed under section 3(a), and  
11          both judges authorized to be appointed under section 3(b),  
12          have been appointed, by and with the advice and consent  
13          of the Senate.

○